

**COLORADO RIVER RECOVERY PROGRAM
FY-2001 PROPOSED SCOPE OF WORK**

Project No.: CAP-6-LA

Lead Agency: U.S. Fish and Wildlife Service
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Category:

- ☐ Ongoing project
☒ Ongoing-revised project
☐ Requested new project
☐ Unsolicited proposal

Expected Funding Source:

- ☐ Annual funds
☒ Capital funds
☐ Other

I. Title of Proposal:

Land Acquisition for the Habitat Restoration Program.

II. Relationship to RIPRAP:

- GREEN RIVER ACTION PLAN: MAINSTEM
ACTIVITY II. RESTORE HABITAT
II.A. Restore and manage flooded bottomland habitat.
- COLORADO RIVER ACTION PLAN: MAINSTEM
ACTIVITY II. RESTORE HABITAT
II.A. Restore and manage flooded bottomland habitat.
- COLORADO RIVER ACTION PLAN: GUNNISON RIVER
ACTIVITY II. RESTORE HABITAT
II.A. Restore and manage flooded bottomland habitat.
- GENERAL RECOVERY PROGRAM SUPPORT ACTION PLAN
ACTIVITY II. RESTORE HABITAT
II.A. Conduct inventory of flooded bottomland habitat for potential restoration.
II.B. Support actions to reduce or eliminate contaminant impacts.

III. Study Background:

Green River

There are an estimated 11,428 acres of privately-owned lands and 6,000 acres of Tribal lands within the Green River floodplain from the boundary of Dinosaur National Monument (River Mile 318) downstream to Pariette Draw (RM 238). This stretch of river is home range to the last remaining riverine population of razorback suckers. Upstream of this area (and at RM 311.5), razorback suckers spawn during high spring flows. After a few days razorback eggs hatch and larvae drift downstream into floodplain and backwater nursery areas. Levees and reduced spring flows have denied access to many of these floodplain nursery areas. The goal of Green River Land Acquisition is to restore and protect a contiguous riparian corridor to assist in recovery of the razorback sucker and other endangered fishes. Plan implementation focuses on privately-owned lands and Tribal lands within the Green River floodplain from Dinosaur National Monument downstream to Pariette Draw, where razorback adults reside; where numerous razorback larvae have been found; where flood frequency and duration can be controlled, in part, by Flaming Gorge operations; and where floodplain development has been relatively minimal and is, therefore, reversible. The plan is to acquire perpetual easements, fee title, or other forms of agreements from willing landowners.

The "Flaming Gorge High Flow Damage Assessment Report" (developed jointly by the U.S. Fish and Wildlife Service, the Provo Area Office of the U.S. Bureau of Reclamation, and the Western Area Power Administration), stated that 1993 flows damaged 521 acres of pasture lands, 105 acres of cropland, pumps, and 2 mobile home properties in the Jensen, Utah, area of the Green River. Estimated costs for resolving the problems and preventing future damage (e.g., by acquiring properties and moving the mobile homes and pumps) ranged from approximately \$320K to \$600K.

Therefore, acquisition of interests in floodplain properties along this stretch of river would be expected to help the endangered fishes by providing/protecting habitat; the area residents by reducing flood damages; and the Bureau of Reclamation by allowing greater flexibility in operating Flaming Gorge.

Gunnison River

The Gunnison River between RM 50 and RM 75 is an area where razorbacks are believed to have been historically abundant. Pikeminnow still reside in this section of river. There are approximately 774 acres of floodplain habitat in this stretch; mostly privately owned; mostly with flood prevention levees. Target areas for restoration and/or protection include Escalante State Wildlife Area (RM 51-53), owned by CDOW; Johnson Boy's Slough (RM 53.6); Confluence Park (RM 57.1), and other bottomland areas. Landowners at these and other sites are being contacted to see if they would be interested in entering into an agreement which would permit flooding during spring runoff.

Mitchell (1995) identified 61 ponds along the Gunnison River, ~40 located between RM 50 and 75. Pond owners will be contacted to see if they will permit connection of the pond with the river, to serve as surrogate floodplain habitat for use by endangered fishes.

Colorado River

Razorbacks are believed to have been abundant historically in the Colorado River between Westwater and Rifle (RM 127-240). The area currently includes pikeminnow larval nursery areas and adult high concentration areas. There are an estimated 3,588 acres of potential floodplain habitat; mostly privately owned; mostly with levees. Landowners are being contacted to see if they would be interested in entering into an agreement which would permit flooding during spring runoff.

Mitchell (1995) identified 253 ponds between Rifle and State Line. Pond owners will be contacted to see if they will permit connection of ponds with the river, to serve as surrogate floodplain habitats for use by endangered fishes.

IV. Study Goals, Objectives, End Product:

Goal: To assist in razorback sucker recovery by restoring and protecting high priority floodplain habitats along the Green, Gunnison, and Colorado rivers, by acquiring interests on floodplain properties.

Objectives: The Project can be divided into five different areas of concentration:

1. Land acquisition planning - define the need for real property, analyze the available property on a project basis, and develop an acquisition program that provides the habitat.

FY2001 Objective - Acquisition planning was completed for acquisitions by Bureau of Reclamation. During FY1999, Fish and Wildlife Service completed planning to allow transfer of Bureau easements to the Service. During FY2000, procedure for transferring easements from Reclamation to the Service was established. The Habitat Coordinator also worked with the Service to develop guidelines for monitoring and managing the easements as a part of the National Wildlife Refuge System within the Service.

In FY2000 and FY2001 we are conducting pre-acquisition planning in Delta and Garfield Counties in Colorado, to obtain project maps, identify potential tracts for acquisition, etc.

2. Public contacts - meet with local, state, and federal government agencies; special interest groups; and landowners; to identify issues, develop policy, gain support, and encourage landowners to participate.

FY2001 Objective - Continue and strengthen contacts that have been developed in the past. New contact objectives include water users, conservation organizations, and Realtors.

3. Land acquisition procedure - based on planning and public contact efforts, develop procedure in cooperation with the agencies within the Recovery Program to provide real estate assistance. We will be working closely with the Service as they start acquiring easements to establish acquisition procedure.

FY2001 Objective - To continue to revise and streamline the procedure to standardize the methods and eliminate errors, delays, and unnecessary paperwork. New procedures for approving contaminant surveys, transferring the easements, monitoring and managing the easements, and habitat enhancement construction (as it pertains to the easements) will be implemented whenever possible in FY2001.

4. Project approvals - Approvals to authorize the overall land acquisition project.

FY2001 Objective - Approvals have been received for the Bureau to acquire property and for the Service to acquire property and accept transfers of the property acquired by the Bureau. Unless there is a change in policy, all required approvals have been received for the land acquisition project.

5. Processing individual tracts - Once a landowner expresses an interest in the program, this extensive process either eliminates their property as an acquisition alternative or prepares that property for acquisition.

FY2001 Objective - To continue processing for all tracts that were not acquired in FY2000, and process enough new tracts to obligate available funding. The method used to prepare individual tracts will continue to be reviewed and modified to make it more efficient and to establish a system of checks and balances. As mentioned in Section IV.3. above, new procedures will be used to acquire, transfer, and manage each individual tract.

End Products:

Easement, lease, or fee title agreements to restore and protect flooded bottomland within the floodplain along the Green River between Pariette Draw (RM 238) and Dinosaur National Monument (RM 318); along the Gunnison River (to RM 75); and along the Colorado River between Westwater and Rifle (RM 127 to RM 240).

Description of past performance on this or similar projects:

1. Land Acquisition Planning: This step has basically been completed. The purpose of the project is to protect and restore flooded bottomland habitat that directly benefits razorback suckers and Colorado Pikeminnow and indirectly benefits Bonytails and

Humpback Chubs. The Project is limited to floodplains along limited segments of the Colorado, Green, and Gunnison Rivers in Colorado and Utah.

Perpetual easements will be acquired to protect existing habitat from development and to restore habitat with flood potential. The terms and conditions of the easement document have been drafted, reviewed, and approved. Fee acquisitions may be used whenever easements are not practical, but we are working with non-profit organizations to convert fee-only tracts to easements. By using easements, we acquire all rights that we need to restore and protect endangered fish habitat, but we keep acquisition, operation, and maintenance costs to a minimum. We also have minimal impact on the community and private property.

For the Green River in Utah, ownership maps for the project area were drafted by computer. Data on the landowners in the Green River project area was collected including names, addresses, and phone numbers. Potential landowners were contacted by letter and follow-up telephone calls whenever possible. Meetings in Jensen, Utah were held with landowners and other interested parties to review the proposed project and address local issues.

A similar process has been used to contact priority landowners on the Colorado and Gunnison Rivers. We have more potential easements than our available funding.

2. Public contacts: A wide variety of the public has been contacted and this will continue throughout the project. It serves to inform others of the proposed project, identify their issues and concerns, look for alternative ways to protect habitat, and develop opportunities to acquire easements in conjunction with other programs or projects. It helps us strengthen public support for land acquisitions and the Recovery Program as a whole. It also helps us identify landowners that are willing to consider an easement on their property.

Formal informational presentations have been given to all of the city and county government bodies within the project. Informal meetings have been held with the staff for many of the local government bodies and federal agencies that have an interest in the riparian areas. Attended various meetings with other groups such as Partners for Wildlife, Colorado Riverfront Commission, trust organizations, conservation organizations, etc. Public meetings and media interviews were held during the review period for the Draft Environmental Assessment. Informational presentations will be offered to water users, gravel industry representatives, environmental groups, and Realtors.

3. Land acquisition procedures: The Colorado River Recovery Program did not have policies and procedures for land acquisition and these had to be established. It was determined that Bureau of Reclamation (Bureau) would provide technical real estate support for the program. Funding for land acquisition is a part of their budget. Using their policies and procedures complies with their acquisition approval authority. Minor modifications were adopted so that all acquisitions meet Recovery Program criteria. This includes but is not limited to development of the project; review and approval of right of

entry, lease, and easement documents; initial review and approval of candidate properties; and overall assistance and monitoring.

The Bureau indicated that they would only acquire fee and easement property if another entity would accept transfer and assume responsibility for that property. Utah and Colorado were contacted by letter to see if they would accept the property. There was no response. There also was some question if the Bureau could transfer acquired property outside of the federal government. The Fish and Wildlife Service (Service) agreed to accept administrative control of the property after they complete their planning process, which has been completed. The Bureau then agreed to acquire property for the Program if their operation and maintenance costs are reimbursed by the Program.

This has now been expanded to allow the Service to actively acquire easements along a portion of the Colorado River with funding from the Colorado River Recovery Program.

Attempts were made without success to develop a policy with the State of Utah on the navigable sovereign lands issue. Once a contract is signed to acquire an easement, the acquisition package will be forwarded to the Department of Interior Solicitor's Office to review title under standard operating procedure. If title cannot be approved because of this issue, negotiations with the State of Utah will be handled by the Solicitor's Office.

The method of acquisition was extensively discussed and reviewed within the Program. The Bureau drafted an easement based on our summary of real property rights that had to be included. The easement document has been reviewed and approved by Program, Fish and Wildlife Service, and Bureau. The same procedure was used to develop a growout pond lease.

4. Overall project approvals: A Draft Environmental Assessment was completed, submitted for public review and comment. The final draft has been approved and acquisitions can proceed under the National Environmental Policy Act. A Supplemental Environmental Assessment was completed and approved by the Service so the acquisitions could be included in the National Wildlife Refuge System.

A Biological Opinion was prepared and approved. The acquisition project now complies with the Endangered Species Act and we can proceed with the acquisitions.

As mentioned above, the easement document was approved.

5. Individual tract processing: Once a landowner expresses an interest in selling an easement, an extensive process is used to eliminate undesirable property and prepare to acquire an interest in desirable property.

During the early stages of the project, considerable time was spent negotiating with Bureau of Indian Affairs and the Ute Tribe to reach an agreement to protect flooded bottomland on

tribal lands along the Green River. Those negotiations ended without an agreement, but BIA has indicated that talks can resume again.

Many properties are eliminated from consideration during the initial stages of the processing because their land is located outside the project area or is otherwise incompatible. Other properties were dropped from consideration by the Program or the landowner during the review process.

After the initial contact is made a physical review of the property is conducted with the landowner or their representative by the Habitat and Land Acquisition Coordinators. If the property has good potential, an initial search of the county records is conducted and basic information on the property is compiled to begin processing. This includes maps, aerial photographs, legal descriptions, lease and permit information, loans, and basic background data. A contaminant survey and topographic floodability survey are requested for the property. This can take up to six months until completion. The acquiring agency is requested to order a preliminary title search and a right-of-entry agreement is forwarded to the landowner for signature.

Once the property passes the contaminants survey and is approved for floodability, basic information and the floodability maps are forwarded to the acquiring agency to survey the fee and easement property boundaries and to issue an appraisal contract. Incidental information on leases, gravel rights, gravel permits, loans, etc. are also collected and analyzed to prepare for acquisition. For property where the owner indicates that they only want to sell in fee, we try to find third parties that will buy the remainder subject to the easement or negotiate with non-profit organizations to buy the property in fee, sell an easement to the Recovery Program, and then sell the remainder.

By the middle of FY2000, the Bureau of Reclamation had made offers on 24 properties and successfully acquired eight of those easements. Other properties are in various stages of the acquisition process and they are being processed to prepare to obligate FY2000 available funding before the end of the fiscal year.

All acquired tracts will be transferred to the Service as soon as they are ready.

V. Study Area

This SOW pertains to the Green River floodplain between Pariette Draw (RM 238) and Dinosaur National Monument (RM 318); the Gunnison River floodplain between Escalante SWA (RM 50) and the North Fork (RM 75) and the Whitewater area; and the Colorado River floodplain between Westwater (RM 127) and Rifle (RM 240).

Green River

There are ~111 privately-owned floodplain properties between DNM and Pariette. For various reasons, not all of the owners of all of these properties will be contacted, at least not initially. For example, some of the properties are small lots with houses, surrounded by other small lots with houses, with multiple-owner tracts between them and the river. The ideal bottomland property would be large, single owner, within the 5-year floodplain, with levees that could be breached to enhance floodability, and no adjacent landowners that would be affected by enhanced floodability. The following criteria were considered in determining which landowners to contact first:

1. Property within the 100-year floodplain.
2. The most "floodable" properties will be targeted first (i.e., properties within the 1 to 10-year floodplain which flood or could be made to flood at the lowest flows; determined by aerial photos, 1993 High Flow Damage Assessment surveys; and/or floodability surveys).
3. No known contaminants problems (based on existing available data).
4. Surface acreage.
5. Improvements on property (which would affect the value and cost of the property and the potential for flood damage).
6. Ownership patterns (e.g., bottomlands with multiple owners).

Based on these criteria, on the Bottomlands Reconnaissance Inventory, on results of the 1993 High Flow Damage Assessment surveys, and on aerial photos taken during spring runoff, lists of private and Tribal lands have been compiled as a starting point for making contact with landowners. All priority landowners have been contacted to determine if they might be interested in some form of agreement (i.e., to assess their willingness to cooperate/participate). Where landowners have shown an interest, their properties will need to go through a standard screening process before an easement/agreement can be finalized. Each candidate site will require a contaminants assessment, a floodability survey, environmental compliance, title search, appraisal, and solicitor review before an agreement can become final. Within Utah, each draft agreement will be reviewed by the State Attorney General's Office to resolve any issues pertaining to Utah's sovereign lands along navigable waters. The property's failure to pass any of the "tests" could kill the deal.

Table 1 lists landowners who responded to the 1993 High Flow Damage Assessment surveys. They sustained damages as a result of 1993 spring flows, which peaked at 20kcf/s at the Jensen gage. Some of these landowners have demonstrated a willingness to enter into an agreement.

Table 1. 1993 High Flow Damage Assessment Properties

<u>NAME</u>	<u>LOCATION (RM)</u>
Chew, Scott	East 316.5-317.5
Snow, Bart	West 306-307
Peterson, Blake	West 304.5-305
Haslam, Sam	West 304-304.5
Murray, Billy	West 303.5-304
Rasmussen, Smokey	West 303.5-304.3?
Peterson, Blake	West 301.2-302.5?
Goff, James & (son) David	West 297-299
Wall, Scott	West 295-296
Snow, Meril	East 302-303.5
Snow, John	East 301?
Powell, Charles	East 299-301
Annerl, Frank & Doris	East 299
Olson, Francis & Daniel	East 299
Jones, Claude	East 298?
Rasmussen, Smokey	East 296
Slaugh, Jay	West 283.5
Fitzen, Jerry Yerian Mines	West ~276?

Table 2 lists sites which had standing water during May 1993 (when flows were 18.2kcfs at Jensen and 23.9kcfs at Green River) that are either private or Tribal lands. In some cases, standing water may have been caused by "subbing" as opposed to flooding. Some of the sites may have levees which could not be detected on the 35mm aerial photos. With the exception of Escalante, which is known to have contaminants problems, owners of these sites will be contacted to see if they would be interested in some form of agreement.

Table 2. Green River floodplain habitats with standing water during 1993.

<u>SITE</u>	<u>RIVER MILES</u>	<u>5/93 ACRES</u>	<u>9/93 ACRES</u>
Escalante	302.5-309.5	149	51.9 Pri/Dep/Lev
Meril Snow Ranch	302.0-303.0	82	1.3 Pri/Dep/Lev
Gravel Ponds	301.0-302.0	10	9.9 Pri/Dep
Little Stewart	295.5-297.5	132	143.3 Fed/Pri/Dep/Lev
Spring Hollow	295.0-296.0	19	9.4 Pri/Ter
Walker Hollow	294.0-295.0	22	13.1 Pri/Ter
Alhandra Ferry	292.0-294.0	18	1.9 Pri/Dep
Gravel Pits	292.0-293.0	5	1.2 Pri/Dep
Horseshoe Bend	277.0-284.0	85	14.1 Fed/Pri/Ter
Hamacker/Baeser	271.0-274.0	316	4.0 Pri/Dep
Brennan	262.0-266.0	100	0.0 Fed/Pri/Dep/Lev
Ute Pasture	248.0-251.0	432	0.0 Tribe/Ter
Duchesne confluence	248.0-249.0	134	3.0 Tribe/Ter/Lev
White confluence	248.0-249.0	496	0.0 Tribe/Ter/Lev
West Branch	243.0-247.0	615	37.4 Tribe/Dep
Tia Juana	242.0-244.0	319	64.6 Tribe/Dep
Pariette Draw	238.0-241.0	106	0.0 Pri/Ter
Gold Hole	201.0-202.0	29	0.0 Tribe/Ter
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Total = 18	201.0-310.0	3,069	355.1
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Terraces -	1,323 acres	<u>KEY</u>	
Depressions -	1,746 acres	Pri-Private lands	Dep-Depression
		Fed-Federal lands	Ter-Terrace
Tribal -	2,025 acres	Tribe-Tribal lands	Lev-Levee
Private -	1,044 acres		
With Levees -	872 acres (some sites may have levees which could not be detected in the aerial photos)		
Without Levees -	2,197 acres		

FWS and UDWR developed an updated report on Green River floodplain landowners which was available December 1995. The report includes maps and aerial photos with landowners superimposed, and lists of landowners with acreage, names, addresses, phone

numbers, etc., to further refine priorities and begin dialogue with the floodplain landowners.

Gunnison River

There are approximately 774 acres of potential floodplain habitat between RM 50 and RM 75. Mitchell (1995) identified approximately 40 ponds along the river in this area. The most floodable lands and the ponds closest to the river will be targeted for easement agreements.

Colorado River

There are an estimated 3,588 acres of potential floodplain habitat between Westwater and Rifle (RM 127-240). Also, Mitchell (1995) identified 253 ponds between Rifle and State Line. The most floodable lands and the ponds closest to the river will be targeted for easement agreements.

VI. Study Methods/Approach

Strategy:

The Land Acquisition Coordinator is responsible for coordinating all aspects of the acquisition project. The coordinator works directly with landowners, the local community, and appropriate agencies to acquire habitat so it can be enhanced and protected. Specific information on the five areas of concentration and our FY01 objectives can be found in Section IV, above.

Our efforts in the past were to design the project, conduct extensive outreach in the local communities, identify willing landowners, seek project approvals, and process potential tracts for acquisition. Since we have completed our initial planning and have established contacts within the local communities, we can concentrate more of our efforts on actual land acquisition with less emphasis on outreach and project development.

Geographically, our initial efforts were focused on Green River habitat in Utah. In FY1999 we contacted every remaining landowner on the Green River and contacted landowners with priority habitat along the Colorado River in Mesa County, Colorado. In FY2000, we also began contacting landowners on the Colorado River in Garfield County and the Gunnison River in Delta County. Available tracts with good habitat will be processed as quickly as possible for acquisition.

Public contact will continue to provide information on our project and to solve issues that develop. The focus for public contact will shift more toward developing partnerships that will help us acquire land and provide habitat.

VII. Task Description and Schedule (FY2001)

1. Acquisition Coordinator develops community relations throughout local community; and contacts landowners to introduce concept of habitat restoration and the land acquisition program. (ongoing).
2. Coordinator oversees the processing of individual tracts as described in Section IV, in subsection identified as Description of past performance on this or similar projects, under Item 5 - Land acquisition procedures.

Note: Contaminants screening, floodability assessments, and NEPA will be funded from other Habitat Restoration Program components.

Following are time estimates (per site) for portions of the process:

- Initial contact and review: 1 month
- Floodability and contaminant surveys: 4-7 months
- Boundary survey and appraisal process: 3-6 months
- Negotiation process: 1-3 months
- Title clearance, legal review, closing: 1-3 months

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-Total: 10-20 months per site

VIII. FY-2001 Work

- Description of Work
 - See study methods/approach and task descriptions, above.
- Deliverables (due dates vary as willing landowners are identified)
 - Right of Entry Agreements
 - Floodability reports
 - Contaminants reports
 - Preliminary and Final Title Reports
 - Appraisal reports
 - Boundary surveys, maps, and legal descriptions
 - Cooperative agreements with third parties (if needed)
 - Final agreements/easements
 - Final Title Opinion and Recordation
 - Transfer easements from Reclamation to Service
 - Summary report of results 12/2001

-Budget

Project Leader	\$ 87.5K + overhead
(salary, operational expenses, travel, etc.)	
Survey Contracts \$5K to \$10K per site X 20 sites =	\$100K to \$200K
Contract Appraisals \$4K to \$8K per site X 20 sites =	\$ 80K to \$160K
Title Insurance =	\$ 6K to \$ 12K
Land Values	
Green River - \$150 to \$1,500 per acre	
Colorado and Gunnison rivers - \$300 to \$15,000 per acre	
Perpetual easement = 10% to 100% of fee value	
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Range \$15 to \$15,000 X 1000 acres =	\$15K to \$15,000K
Miscellaneous	\$60K to \$220K
(appraisal and boundary survey contracting and reviews, mapping, acquiring title insurance, processing easement tracts for solicitor's review and approval, negotiations, acquisitions, closing, etc.)	
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Total Needed =	\$348.5K to \$15,679.5K plus overhead
Total Available = \$950.3K plus \$26.3K overhead.	

*Recommend that any unexpended FY 00 land acquisition funds be carried over for land acquisition in FY 01

*Recommend that Management Committee give consideration to earmarking a portion of unobligated unexpended FY 00 funds from other projects for FY 01 land acquisition.

FY 2002 Work

-Description of Work

An assessment of progress will be made. Assuming we have been successful, then work will continue as described above.

-Deliverables (due dates vary as willing landowners are identified)

Right of Entry Agreements
Floodability reports
Contaminants reports
Preliminary and Final Title Reports
Appraisal reports
Boundary surveys, maps, and legal descriptions
Cooperative agreements with third parties (if needed)
Final agreements/easements
Final Title Opinion and Recordation
Transfer easements from Reclamation to Service
Summary report of results 12/2001

-Budget
\$976.6K

IX. Budget Summary

FY2001 \$ 976.6K
FY2002 \$ 700.0K
Total: \$1,676.6K